

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (06-22r)

Subject

Initiative petition from Steven L. Reed regarding a proposed constitutional amendment modifying Section 17 of Article IV relating to recall of statewide elected officials. (Received April 11, 2006)

Date

May 11, 2006

Description

This initiative petition would amend Section 17 of article IV by adding Section 17(b). Section 17(b) would allow the recall of elective state officers. Recall is the power of the electors to remove an elective officer. Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county.

The Secretary of State shall maintain a continuous count of the signatures certified to that office. An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or controller, respectively. A state officer who is not recalled shall be

reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. The Legislature shall provide for recall of local officers.

The amendment is to be voted on in November, 2006, or at a special election called by the governor.

Public comments and other input

The State Auditor's Office received input from the Secretary of State (SOS), the Department of Elementary and Secondary Education (DESE), the Department of Economic Development (DED), the Department of Natural Resources (DNR), the State Treasurer's Office (STO), the Department of Mental Health (DMH), the Office of State Courts Administrator (OSCA), the Missouri Department of Transportation (MoDOT), the Attorney General's Office, the Office of Administration (OA), the Missouri Department of Conservation (MDC), the Department of Health and Senior Services (DHSS), the Department of Public Safety (DPS), the Department of Labor and Industrial Relations (DOLIR), the Department of Higher Education (DHE), the Department of Corrections (DOC), the Department of Social Services (DSS), the Department of Agriculture, the Department of Revenue (DOR), the State Public Defender, the House of Representatives, the Senate, the Governor's Office, the City of West Plains, and Jasper County.

We did not receive a response from the City of Mexico, the City of Union, Callaway County and Clay County.

Assumptions

Officials from the SOS indicated that under this initiative petition, the Secretary of State's Office would be responsible for paying local election authorities pursuant to Section 115.065, RSMo. The state would pay its proportional cost depending upon the date of the election. If the election was consolidated with another previously scheduled election, as envisioned by the petition, the state's cost would be reduced.

An April election, normally held by local election authorities, based on past statewide propositions sent to a vote would cost roughly \$1,250,000.

A statewide election with no standard election date, like the Presidential primary, where the state bears the full cost, would cost roughly \$4,000,000.

August or November elections during even numbered years cost \$0.

Officials from the DESE indicated the petition would have no fiscal impact on the DESE; however, local government election costs could range from zero to unknown.

Officials from the DED indicated the petition would have no fiscal impact on the DED.

Officials from the DNR indicated the petition would not have a direct fiscal impact on the DNR. The DNR did indicate the petition refers to a "comptroller." To their knowledge, the State of Missouri does not have a "comptroller."

Officials from the STO indicated the petition would have no fiscal impact to the STO. However, there is a potential fiscal impact to the State of Missouri in the event that a recall is initiated and the state official manages to maintain their office. The proposed language states, "a state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred." This is tantamount to the state issuing a blank check.

Officials from the DMH indicated the petition would have no fiscal impact on the DMH.

Officials from the OSCA indicated the petition would have no fiscal impact on the judiciary.

Officials from the MoDOT indicated the petition would have no fiscal impact on their department.

Officials from the Attorney General's Office indicated the petition would have no fiscal impact on the Attorney General's Office.

Officials from the OA, on behalf of the Governor's Office, indicated approval of this petition would not result in any costs or savings to the OA or the Governor's Office. The OA defers to the SOS to determine the costs of a recall election. The OA defers to the General Assembly to determine its costs of providing for the recall election, including the circulation, filing and certification of petitions. The OA assumes reimbursements of personal and legal expenses of an officer not recalled will be in excess of \$100,000 and could be a significant cost to the state's general revenue fund.

The OA also noted that the petition contains a reference to subdivision (d) of Section 16 of Article VI, which does not exist in the Missouri Constitution.

Officials from the MDC indicated the petition would have no fiscal impact on the MDC.

Officials from the DHSS indicated they would not be responding since the petition has nothing to do with the DHSS.

Officials from the DPS indicated the petition would have no fiscal impact on the DPS.

Officials from the DOLIR indicated the petition would have no fiscal impact on their department. The DOLIR did indicate that there is no subdivision (d) of section 16 of Article VI. Also, the petition refers to a "comptroller." The state does not have a comptroller.

Officials from the DHE indicated the petition would have no fiscal impact on the DHE.

Officials from the DOC indicated the petition would have no fiscal impact on the DOC.

Officials from the DSS indicated the petition would have no fiscal impact on the DSS.

Officials from the Department of Agriculture indicated the petition would have no fiscal impact on their department.

Officials from the DOR indicated the petition would have no administrative impact on the department.

Officials from the State Public Defender's Office indicated the petition would have no fiscal impact on their Office.

Officials from the House of Representatives indicated the petition would have no fiscal impact on the House.

Officials from the Senate indicated that assuming the intent of the proposal is for the Legislature to establish procedures to fulfill the requirements of the proposal via legislation, there would be no fiscal impact as it relates to their agency or minimal expenses which could be absorbed by current appropriations.

Officials from the City of West Plains indicated the petition would have no fiscal impact.

Officials from Jasper County indicated that if the State of Missouri will pay for all petition certification and recall election costs for both state and local recall issues, then there is no cost to local government, but the process could increase the work load of the County Clerk and his staff over and beyond their regular duties.

Fiscal Note Summary

Election costs to state government are contingent upon submission of recall petitions and the timing of resulting elections, and could range from zero to four million dollars. Additional costs may be incurred if state officers prevail in such elections. Such costs may exceed \$100,000. Any costs to local governments are unknown.